

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

UNITED STATES OF AMERICA

Plaintiffs,

V.

CASE NO. 1:21-cv-00264 (WAH/EAH)

LIMETREE BAY TERMINALS, LLC,
WEST INDIES PETROLEUM LIMITED,
PORT HAMILTON REFINING AND
TRANSPORTATION, LLLP, and the
TRANSITION REFINERY ENTITY, INC.

Defendants.

**LIMETREE BAY TERMINALS, LLC’S CONSENT MOTION FOR LEAVE TO FILE A
SUR-REPLY TO PORT HAMILTON REFINING AND TRANSPORTATION, LLLP
AND WEST INDIES PETROLEUM LIMITED’S RESPONSES**

Pursuant to LRCi 7.1(a), Defendant Limetree Bay Terminals, LLC, d/b/a Ocean Point Terminals (“OPT”) seeks leave of Court to file the attached sur-reply to (1) *West Indies Petroleum Limited’s Response to Plaintiff’s Motion to Direct Defendants to Abide by the Joint Stipulation in Accordance with the Bankruptcy Sale Order* (ECF Doc. 51); (2) *Port Hamilton Refining and Transportation, LLLP’s Response to the United States’ “Motion to Direct Defendants to Abide by the Joint Stipulation in Accordance with the Bankruptcy Court Order”* (ECF Doc. 52); (3) *Port Hamilton’s Offer of Stipulation* (ECF Doc. 52-1); and (4) *Port Hamilton Refining and Transportation, LLLP’s Statement in Response to Limetree Bay Terminals’ Response to the United States’ Motion to Direct Defendants to Abide by the Joint Stipulation* (ECF Doc. 53). (Exhibit A.)

All three responses and the associated “offer of stipulation” referenced above were filed subsequent to the response that OPT filed (ECF Doc 49) and raise issues for the first time which OPT has not had an opportunity to address. Specifically: (1) Port Hamilton Refining and

Transportation, LLP (“PHRT”) proposes an amendment to the Joint Stipulation which neither the U.S. nor OPT had previously seen, (2) PHRT claims to own OPT’s property in an unauthorized sur-reply, and (3) West Indies Petroleum Limited claims that it should not be party to the Joint Stipulation. A sur-reply is an appropriate vehicle to address these new arguments and related factual assertions. *See Amlin Underwriting, Ltd. v. Caribbean Auto Mart of St. Croix, Inc.*, No. 09-cv-00021, 2010 WL 3825106, at *2 (D.V.I. Sept. 28, 2010) (“It is appropriate to grant a sur-reply to allow the [other] party the opportunity to respond to arguments raised for the first time [in responsive briefing].”). Granting OPT’s motion “keeps the playing field even” by allowing OPT to “sur-reply to arguments raised for the first time” in these filings. *See Carlins v. Bd. of Dirs. of Gallows Point Condo. Corp.*, No. CIV. 2003-110, 2004 WL 3222762, at *2 (D.V.I. Nov. 29, 2004).

OPT proposes to file the attached consolidated sur-reply to these three responses and does so within the time ordinarily allotted for replies. *Cf. Carlins*, 2004 WL 3222762, at *2 (movant “is neither required nor prohibited from attaching [a] proposed sur-reply to [the] motion for leave to file it”). OPT’s motion should be granted, as its “further response or reply will aid the court by addressing relevant issues,” and equally importantly, clarifying where issues brought before this court in PHRT and WILP’s filings are *not* relevant. *Weer v. Hess Oil Virgin Islands Corp.*, 64 V.I. 107, 122 (V.I. Super. 2016).

Pursuant to LRCi. 7.1(f), OPT has conferred with counsel for those parties in this case. The U.S., West Indies Petroleum Limited, Port Hamilton Refining and Transportation, LLLP, and Transition Refinery Entity, LLC have all indicated that they do not object to this motion for leave.

Wherefore, OPT respectfully requests the Court to grant leave for OPT to file its consolidated sur-reply and deem the sur-reply attached as Exhibit A as accepted. A proposed order is submitted herewith.

Respectfully submitted,

Dated: August 31, 2023.

s/ Carl A. Beckstedt III

Carl A. Beckstedt III

V.I. Bar No. 684

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CERTIFICATE OF SERVICE

I HEREBY certify that, on August 31, 2023, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing (NEF) to all counsel of record, and I served the document upon the following counsel for the Transition Refinery Entity, LLC by electronic mail:

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